

**LEMON GROVE CITY COUNCIL
AGENDA ITEM SUMMARY**

Item No. 6
Mtg. Date November 20, 2018
Dept. City Manager's Office

Item Title: **[Ordinance No. 449 Adding Chapter 8.70 to the Lemon Grove Municipal Code
Establishing the Tobacco Retailer License]**

Staff Contact: [Miranda Evans, Management Analyst]

Recommendation:

Staff recommends that the City Council:

- 1) Consider the proposed Tobacco Retailer License provisions; and
- 2) Adopt Ordinance No. 449

Item Summary:

[During the City Council's goal setting workshop held on May 9, 2017, the Council stated that establishing a tobacco retailer licensing program was one of its top priorities to continue to protect the public health, safety and welfare and improve the quality of life for Lemon Grove residents. City staff researched programs implemented in other local jurisdictions in preparing the attached Tobacco Retailer License (TRL) ordinance. Staff's report (**Attachment A**) includes background information on state and local TRL programs; data on tobacco use by youth; an overview of regulations from other San Diego County jurisdictions; community feedback; and information on the proposed TRL program provisions, implementation plan and program cost. **Attachment B** includes the proposed TRL Ordinance.]

Fiscal Impact:

The proposed TRL program will include a fee structure that will offset the cost of license administration by the City and annual compliance checks by the San Diego County Sheriff's Department. The City was recently awarded \$46,071.00 in grant funding from the California Department of Justice (DOJ) towards program administration and enforcement costs for 2018 – 2020.

Environmental Review:

- | | |
|---|---|
| <input checked="" type="checkbox"/> Not subject to review | <input type="checkbox"/> Negative Declaration |
| <input type="checkbox"/> Exempt | <input type="checkbox"/> Mitigated Negative Declaration |

Public Information:

- | | | |
|--|---|---|
| <input checked="" type="checkbox"/> None | <input type="checkbox"/> Newsletter article | <input type="checkbox"/> Tribal Government Consultation Request |
| <input type="checkbox"/> Notice published in local newspaper | <input type="checkbox"/> Notice to property owners within 500 ft. | |

Attachments:

- | | |
|-------------------------------|------------------------------|
| A. Staff Report | C. Letters of Support |
| B. Proposed Ordinance No. 449 | D. Community Survey Response |

LEMON GROVE CITY COUNCIL STAFF REPORT

Item No. 6

Mtg. Date | November 20, 2018

Item Title: | **Proposed Tobacco Retailer License Ordinance** |

Staff Contact: | Miranda Evans, Management Analyst

Background:

During the City Council's May 9, 2017 goal setting workshop, the Council stated that establishing a tobacco retailer licensing program was one of its top priorities to continue to protect the public health, safety and welfare and improve the quality of life for Lemon Grove residents. City staff researched programs implemented in other local jurisdictions in preparing the TRL Ordinance.

State Tobacco Retail Licensing Program

All tobacco retailers that sell cigarette and tobacco products, including electronic cigarettes (e-cigarettes), are required to obtain and annually renew a tobacco retail license from the state of California and pay an annual licensing fee of \$265 for each retail location where cigarette and tobacco products are sold. Prior to January 1, 2017, the state's licensing requirements only applied to retailers selling traditional cigarette and tobacco products and only required a one-time \$100 fee per location. The state's tobacco retail licensing program is primarily intended to target and fund the enforcement of cigarette tax evasion and black market sales. The state's program does not fund local enforcement activities relating to illegal tobacco sales to persons under 21 years of age.

To further regulate illegal tobacco sales to persons under 21 years of age, over 120 California cities and counties have adopted local TRL programs in addition to the state's licensing requirement. A local license is issued by a city or county to a business selling tobacco products and is aimed at ensuring that licensees are aware of certain eligibility requirements and performance standards.

Proposed Local TRL Program and Community Outreach

At the March 6, 2018 City Council meeting, staff presented an overview of the City's proposed TRL program and associated municipal code provisions.

On May 22, 2018, a focus group meeting was held to solicit feedback from the community. Nine adults and four children attended the meeting. Feedback from the adult participants was provided on the effects of tobacco advertising and its influence on the youth, the need for a local licensing program to enforce violations at the local level, consequences of violating the proposed TRL ordinance, the prevalence of tobacco and tobacco products in the community and tobacco addiction. The group consensus was that a local licensing program is necessary in Lemon Grove and that there should be a zero-tolerance policy for sales to youth. Specifically, the participants requested a "tough law". The youth who attended the workshop ranged between the ages of 13-17 years old and all reside in Lemon Grove. None of the youth participants who attended the focus group reported that they had ever used tobacco products. The youth attendees shared an awareness of tobacco advertisements in print and on the radio. All youth attendees think tobacco

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retailers should be required to obtain a local license and that violators of the law should receive fines and have their licenses revoked if the violations continue.

At the August 8, 2018 City Council meeting, staff presented an update on the proposed TRL program. The DOJ grant award was announced, as were the plans for public outreach. The City Council requested that staff revise the penalties for violations to be based on a three-strike structure over a three-year period, rather than the five-strike structure over a five-year period initially proposed.

Following the August 8, 2018 meeting, staff implemented the public outreach plan. A workshop for tobacco retailers was held on October 3, 2018 at 6 p.m. Each of the 31 tobacco retailers in Lemon Grove were invited to attend the workshop with a certified letter from the City Manager sent 14 days in advance of the workshop to allow for adequate time for scheduling. All 31 return receipts were received at City Hall. Despite this notification process, only one retailer attended the workshop. At the workshop, the City provided an overview of the proposed TRL Program, background information, an explanation of the proposed violations and enforcement plan and an overview of the project timeline. The sole retailer in attendance shared positive feedback on the proposed ordinance and received retailer information and resources.

On October 8, 2018 at 10 a.m., the first community workshop was held. Three individuals attended the workshop along with City staff and Community Action Service & Advocacy (CASA) staff. Positive feedback was shared by all attendees. None of these attendees live in Lemon Grove, but were public policy students at San Diego State University. KUSI advertised the workshop that morning.

On October 10, 2018 at 6 p.m., another community workshop was held. Six individuals attended, one of which represented the National Association of Convenience Stores. The workshop attendees received an overview of the proposed ordinance, asked clarifying questions, and the group consensus was supportive of the proposed TRL program.

In addition to the workshops, an online survey (**Attachment D**) was shared with interested stakeholders who were unable to attend and participate in the in-person workshops. The survey was distributed via the City's e-notification system through the website's list serve and also on Facebook. A total of 56 survey responses (52 online, 4 printed) were collected during a three-week survey response window. The overwhelming majority of survey respondents are in favor of swift and severe punishments to retailers who sell tobacco and tobacco products to persons under 21 years of age.

All of the workshops were advertised on the City's social media platforms, on the home page of the website and the City calendar. Additionally, multiple media outlets and local news stations (CBS 8, Fox 5, KUSI) covered the workshops and the proposed ordinance and aired segments on the morning and evening news broadcasts.

Discussion:

In the United States, over 480,000 people die from tobacco-related diseases every year¹, making tobacco use the nation's leading cause of preventable death. Cigarettes and other tobacco product sales are very lucrative and are usually the third top grossing items sold in convenience stores. According to data from the National Association of Convenience Stores, the average convenience store nationwide generated over \$558,000 in sales from cigarettes alone, accounting for 28.62% of all in-store sales in 2017. While cigarette sales continue to decrease, the use of

¹ United States Department of Health and Human Services Surgeon General 2015 Report.

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other tobacco products (especially e-cigarettes) is steadily increasing among youth due to product innovation and the shift from combustible tobacco products to other forms of tobacco.

Tobacco Troubles

E-cigarette use among U.S. youth and young adults is now a major public health concern. E-cigarette use has increased considerably in recent years, growing an astounding 900% among high school students from 2011 to 2015. These products are now the most commonly used form of tobacco among youth in the United States, surpassing conventional tobacco products, such as cigarettes, cigars, chewing tobacco, and hookahs.² It is notable that hookah lounges are prohibited in the City.

Local data from the California Healthy Kids Survey of seventh graders in the Lemon Grove School District³ revealed that 5% of seventh graders tried electronic smoking devices. Although there are no high schools in Lemon Grove, available data indicates that among East County cities eleventh grade students, 4% smoked cigarettes in the past 30 days and 11% used e-cigarettes in the past 30 days. Additionally, 60% of the eleventh grade students believe cigarettes are “fairly easy/very easy to obtain.” According to the Centers for Disease Control and Prevention, nearly 9 out of 10 smokers started smoking and began their tobacco addiction by age 18.

As mentioned above, Lemon Grove currently has 31 tobacco retailers⁴ from a variety of retail uses including, but not limited to, convenience stores and gas stations, grocery stores, smoke shops and liquor stores. The City has a high concentration of tobacco retail establishments within the Broadway commercial corridor, but a low concentration in the remaining areas of the City. While the California statewide average for sales to youth is 10.3%, Lemon Grove’s sales rates have historically been significantly higher.

According to Youth Tobacco Purchase Surveys conducted by CASA, survey findings revealed that in 2014, 39% of tobacco retailers in Lemon Grove sold tobacco products illegally to youth, including e-cigarettes. In 2015, 41% made illegal sales using the same survey protocol. These results were despite retailer education visits to each store conducted one to two weeks prior to each of these surveys.

As of June 9, 2016, individuals must now be at least 21 years old to purchase any tobacco products, including e-cigarettes. The only exception to this law is for active duty military personnel who may purchase tobacco products if they are 18 years old and have military identification. In 2017, following adoption of the new legislation, a young adult tobacco purchase survey was conducted in Lemon Grove. Prior to that survey, retailer education materials were hand-delivered to all stores in the City. Even so, 31% of stores still sold tobacco products, both cigarettes and e-cigarettes, to youth surveyors under 21 years of age in violation of state law.

As of the writing of this report, the United States Food and Drug Administration (FDA) is expected to propose a ban on menthol cigarettes. The FDA Commissioner Dr. Scott Gottlieb has announced the agency will move forward with a ban on menthol cigarettes in conjunction with limiting the sales of most flavored e-cigarettes, including candy and fruit flavors, in convenience stores and gas stations. According to the Tobacco Control Act, these regulations are anticipated to take effect one year after the policy is finalized, but it may be earlier if it is deemed necessary to protecting public health.

² *E-Cigarette Use Among Youth and Young Adults*. 2016. Vivek H. Murthy, M.D., M.B.A. U.S. Surgeon General.

³ 2014-2015 California Healthy Kids Survey data

⁴ 31 tobacco retailers equates to 1.2 retailers per 1,000 population which is the highest ratio among the five San Diego County cities with a TRL ordinance.

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San Diego County Jurisdiction Regulations

In San Diego County, the following five cities currently have TRL ordinances in place: El Cajon (2004), San Diego (2007), San Marcos (2016), Solana Beach (2009) and Vista (2005). Of the five cities, El Cajon, San Marcos and Vista are considered by tobacco control organizations to be the most effective due to their regular compliance checks. Compliance checks must review the following: existing tobacco laws regulating underage sales, compliance with identification and signage requirements in accordance with the Stop Tobacco Access to Kids Enforcement (STAKE) Act and prohibiting sales of drug paraphernalia. An overview of the program details for each San Diego County jurisdiction with an adopted ordinance are outlined in the following matrix.

Overview of San Diego County Tobacco Retailer Licensing Programs

Jurisdiction	Year Approved	Municipal Code Section	Annual License Cost	Enforcement Agency	Number of Retailers	Retailers per 1,000 Population
City of El Cajon	June 2004	ECMC 8.33	\$675	Code Enforcement Officers (2) and CASA	114	1.1
City of San Diego	November 2007	SDMC 3.3.45	\$132*	San Diego Police Department	1,144	.9
City of San Marcos	July 2016	SMMC 8.65	\$189.50	San Diego Sheriff's Department	55	.6
City of Solana Beach	July 2009	SBMC 6.17	\$110	City Code Compliance Officer	7	.5
City of Vista	May 2005	VMC 3.56	\$250	San Diego County Sheriff's Department	72	.7

* includes \$56 application fee in addition to the \$132 license fee

Proposed TRL Program Provisions

More than 20 years of research throughout California reveals that effective TRL programs require the payment of annual fees adequate to offset program costs and support annual compliance checks. In addition, some ordinances include additional retailer incentives for those with exemplary performance during annual compliance checks. Violations for documented illegal sales to minors result in fines and penalties such as mandated periods of license suspension, up to and including the revocation of a license to sell tobacco products.

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The proposed regulations include effective, research-based TRL provisions with the addition of incentives for responsible retailers. Such incentives offer retailers who comply with licensing requirements and pass compliance checks a discount on their annual TRL license fee. For example, fee reductions may result from compliance with the following items: no tobacco violations on the previous year's compliance check, no tobacco advertising on store windows or doors, electronic age verification at the point of sale, compliance with state-required age of sale signage at each point of sale, and employee tobacco retailing education programs. Under this proposed model, penalties for violations may include fines in lieu of license suspensions that are much more costly to the business, but with revocations for multi-year repeat offenders. Should a license be suspended or revoked, the proposed ordinance includes an appeal process to allow for an impartial review.

This incentive approach is modeled after the City of Vista's ordinance that has been in place for over a decade, and was later adopted by San Marcos in 2016. The approach was created to lower youth smoking rates, reduce youth access to tobacco, educate the community on the issues of illegal tobacco sales to youth and help create a safer and healthier environment. Prior to the adoption of Vista's ordinance, the youth sales rate was 39%. That figure decreased significantly to 1.9% following the adoption and enforcement of Vista's TRL ordinance⁵.

Proposed TRL Ordinance

The attached TRL Ordinance (**Attachment B**) establishes the TRL program in Lemon Grove based in large part on successful programs in the Cities of Vista and San Marcos.

The proposed regulations require all sellers of tobacco products, smoking materials and tobacco paraphernalia to obtain a City TRL license annually using a process that is similar to the regular business license and renewal process. It requires businesses to obtain a TRL by December 31, 2019 for the 2020 calendar year. Licenses would thereafter need to be renewed each year. The core of the program is the annual compliance check conducted by the San Diego County Sheriff's Department with retailer education and assistance from CASA.

Penalties for violations:

After receiving feedback from the City Council and the community requesting swift and severe punishments for retailers that violate the ordinance, staff has amended the penalties for violations. At the August 8, 2018 City Council meeting, a violation structure of five penalties in five years resulting in revocation of a license was proposed. The City Council requested that the penalties be revised to reflect a "three strikes" policy within a three-year period which is coincidentally in accordance with the community's desire.

Staff will take certain factors into consideration to ensure that the penalty is suitable for the violation, including, but not limited, the severity of the violation, the number of violations committed by the tobacco retailer, the amount of time that has passed since the last violation was committed, and whether the tobacco retailer is cooperating with the City and the Sheriff's Department in implementing corrective measures, among other factors.

Under the proposed ordinance, a first violation within a three-year period would result in a warning issued to the licensee, including providing an educational notice about the nature of the violation. A fine would also be imposed based on the severity of the violation. A second violation within a three-year period would result in a requirement to provide education training to employees within 60 days of the notice and an additional fine imposed based on the severity of the violation. A third violation within a three-year period would result in either suspension or revocation of the license.

⁵ September 2013 data from the Center for Tobacco Policy & Organizing

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Should a license be suspended or revoked, the proposed ordinance sets forth an appeal process that allows for a review of the City's determination by an impartial hearing officer. Additionally, any violation(s) found during a compliance check of the business would automatically result in the rescinding of any discounts, and the full TRL fee would be charged.

Drug paraphernalia sales prohibited as a license condition:

Businesses that sell drug paraphernalia sometimes sell tobacco products, and those retailers often claim that the paraphernalia is for the use of tobacco to get around state law that prohibits such sales. The proposed ordinance requires that the retailer comply with all state laws relating to drug paraphernalia as a condition of the license. As a result, if a compliance check reveals that a retailer is selling items constituting drug paraphernalia (as defined by state law), the retailer is violating the local license, which can then be suspended or revoked. Drug control organizations believe this addition to a tobacco retailer license can be a very effective tool to fight substance abuse in communities.

Fiscal impact and licensing fees:

As with the other five San Diego County jurisdictions that have implemented TRL programs, the proposed TRL program would be created with a license fee designed to completely cover the cost of the program administration by the City and enforcement costs incurred by the San Diego County Sheriff's Department. The initial fee proposed is \$250/year which will begin to be collected with business licenses issued in December 2019 for the 2020 calendar year.

The goal in setting this license fee is to provide a discount that incentivizes compliance, but still allows the City to cover all of the direct costs paid to the Sheriff's Department for inspections. It is essential that the fee structure stay within the confines of Proposition 26 which mandates that the City cannot recover more revenue than the cost of implementing the program.

License fee and discounts for compliance:

Under California law, the cost of the license may not exceed the cost to issue the license, carry out annual inspections, or any other associated costs. The City estimates that the cost of inspections, processing the license, and other administrative costs will be approximately \$250 per license. As a result, the fee for 2019 will also be approximately \$250. This fee will be reviewed in 2020 to make sure that it continues to match the salaries and administrative processing costs, as well as the time spent per license. Upon introduction of the Ordinance, staff will include an accompanying resolution which states that the fee will be adjusted up or down in accordance with state law.

Starting the second year of the license, eligible retailers will receive a reduction in their annual fee if no violations are found during their compliance check. Additionally, fee reductions will be available if the retailer has a magnetic strip reader to verify age, conducts regular staff training and/or has no tobacco advertising on store windows or doors. No discounts will be available the first year, but will be available the following year after the retailer has been through at least one successful compliance check.

The proposed amount for each discount beginning in year two of the program will be approximately \$20 (about 8% percent of the 2019 proposed license cost). The goal is to provide a discount that incentivizes compliance. Due to the nature of the grant funding, the license fee and discount for good-actors will need to be revisited after the award cycle ends in June 2020. This proposed fee structure allows for more time spent on set-up and enforcement in 2019 and 2020. Staff recommends that after the grant completion, the CASA case study be reviewed and fee amounts revisited to re-assess if the program is sustainable without grant funding, with

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providing discounts and incentives, and at the low cost offered to retailers. Staff will also look for additional, future grant funding opportunities.

Proposition 56 grant funding award:

In November 2016, California voters approved Proposition 56 which increased the excise tax for tobacco products sold in the state. Thirty million dollars of the projected annual revenue is to be distributed annually to local law enforcement agencies through a grant program to support enforcement of certain state and local tobacco laws. In January 2018, staff became aware of this opportunity and identified it as an implementation measure for the proposed TRL program. In accordance with the State Budget Act and Proposition 56, the grant program guidelines require that only local law enforcement agencies within the State of California are eligible to receive funds. As such, only local agencies with enforcement authority for tobacco-related state laws may apply. However, City staff prepared and submitted a joint-award application with the Sheriff's Department and successfully received grant funding.

The City was awarded a total of \$46,071.00 to fund the administration and enforcement of the TRL Program. This funding is provided through June 2020 and is a crucial component of the start-up costs of the program. The core components of the program in its infancy stage are 1) start-up of the program including public outreach, program implementation including form creation, interagency-coordination with the Sheriff's Department and CASA and 2) enforcement costs from yearly compliance checks performed by law enforcement.

As part of the grant award, CASA will develop and produce an implementation case study for small jurisdictions. The case study will provide background of the jurisdiction and a problem statement utilizing the data derived from multiple youth/young adult purchase surveys. It will also discuss strategies for small jurisdictions to identify constituents, allies and opponents as well as tactics to educate the community and build organizational support. The Case Study will also address various policy considerations for other small jurisdictions interested in pursuing a TRL ordinance and will include pre-and post-ordinance data documenting the reductions in illegal sales to people under age 21 years old, if applicable.

Implementation:

If approved, once the ordinance goes into effect 30 days after the second reading, staff will begin the process to educate Lemon Grove's retailers of the impending changes forthcoming in 2019. All retailers will receive notifications mailed to them and the City's tobacco retailer webpage will continue to be updated. License fees will begin to be collected as licenses are issued in December 2019 for calendar year 2020.]

Conclusion:

[Staff recommends that the City Council consider and adopt the draft Tobacco Retailer License Ordinance No. 449.]

ORDINANCE NO. 449

AN ORDINANCE OF THE CITY OF LEMON GROVE CITY COUNCIL ADDING CHAPTER 8.70 (TOBACCO RETAIL LICENSE) TO THE LEMON GROVE MUNICIPAL CODE ESTABLISHING A TOBACCO RETAIL LICENSE AND PROHIBITING THE SALE OF TOBACCO PRODUCTS TO PERSONS UNDER 21 YEARS OF AGE

WHEREAS, California Penal Code Section 308 prohibits the sale or furnishing of cigarettes, tobacco products and smoking paraphernalia to minors, as well as the purchase, receipt, or possession of tobacco products by minors; and

WHEREAS, California Business & Professions Code Section 22956 requires that tobacco retailers check the identification of tobacco purchasers who reasonably appear to be under 21 years of age; and

WHEREAS, California Business & Professions Code Section 22952 and California Penal Code Section 308 require that tobacco retailers post a conspicuous notice at each point of sale stating that selling tobacco products to minors is illegal; and

WHEREAS, California Business & Profession Code Section 22962 prohibits the sale or display of cigarettes through a self-service display and prohibits public access to cigarettes without the assistance of a clerk; and

WHEREAS, California Penal Code Section 308.1 prohibits the sale of "bidis" (hand-rolled filterless cigarettes) except at those businesses that prohibit the presence of minors; and

WHEREAS, California Penal Code Section 308.3 prohibits the manufacture, distribution, or sale of cigarettes in packages of less than 20 and prohibits the manufacture, distribution, or sale of "roll- your-own" tobacco in packages containing less than 0.60 ounces of tobacco; and

WHEREAS, California Business & Professions Code Section 22971.3 authorizes local authorities to adopt tobacco retailer licensing laws to provide for the suspension and revocation of the local tobacco retailer license for any violation of a state tobacco control law; and

WHEREAS, a 2015 Center for Disease Control and Prevention report states that middle and high school students' use of electronic cigarettes tripled from 2013 to 2014; and

WHEREAS, the same report states that 9 out of 10 cigarette smokers had their first cigarette before the age of 18; and

WHEREAS, according to 2017 data from Youth Tobacco Purchase Surveys conducted by Community Action Service & Advocacy (CASA), 31 percent of Lemon Grove's tobacco retailers sold tobacco products illegally to youth surveyors under 21 years of age; and

WHEREAS, the City of Lemon Grove has a substantial interest in promoting compliance with federal, state and local laws intended to regulate tobacco sales to youth and use by youth; and

WHEREAS, studies have shown that local tobacco retail licensing programs coupled with a strong enforcement program substantially reduces youth access to tobacco; and

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WHEREAS, state law prohibits sales of “drug paraphernalia” however many retailers sell items that are commonly known to be “drug paraphernalia” including water pipes and personal vaporizers used to smoke illicit drugs, claiming the items are for tobacco or e-liquid use; and

WHEREAS, Lemon Grove intends to require compliance with state drug paraphernalia laws as a condition of obtaining and maintaining the local tobacco retail license; and

WHEREAS, in 2016, the Governor approved Senate Bill 7 to change the age for which individuals can purchase tobacco products to 21 years old; and

WHEREAS, the City desires to add Chapter 8.70 to the Lemon Grove Municipal Code to create a Tobacco Retail License.

NOW, THEREFORE, the addition of Chapter 8.70 (Tobacco Retail License) establishing tobacco retailer license regulations, is hereby added to the City of Lemon Grove Municipal Code to read as shown in the attached Exhibit A.

EXHIBIT A

TEXT OF PROPOSED REGULATIONS

NOTE:

- Text proposed to be added is displayed in underlined type.
- Text proposed to be deleted is displayed in strikeout type.

The City of Lemon Grove Municipal Code to add Chapter *** to read as follows:

CHAPTER 8.70 TOBACCO RETAIL LICENSE

SECTIONS:

8.70.010	Purpose
8.70.020	Definitions
8.70.030	Requirement for Tobacco Retail License
8.70.040	Applications Procedure
8.70.050	Issuance and Renewal of License
8.70.060	Display of License
8.70.070	License Fee
8.70.080	Licenses Nontransferable
8.70.090	License Violation - Compliance Monitoring
8.70.100	Suspension or Revocation of License
8.70.110	Denial, Suspension and Revocation - Appeals
8.70.120	Hearings - Generally
8.70.130	Conduct of Hearing
8.70.140	Form and Contents of Decision of Hearing Officer - Appeal to City Manager – Finality of Decision
8.70.150	Enforcement
8.70.160	Severability

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8.70.010 Purpose

The purpose of this Chapter is to encourage responsible tobacco retailing and discourage violations of tobacco related laws that prohibit the sale or distribution of tobacco products, including all smoking materials as defined in section 8.65.020, to minors. This Chapter is not intended to expand or reduce the degree to which the acts regulated by federal or state law are criminally proscribed or to alter the penalty provided therefore.

8.70.020 Definitions

When used in this chapter, the following definitions shall have the meanings given by this section, whether or not these words or phrases are capitalized:

“Drug Paraphernalia” shall have the meaning set forth in Health & Safety Code section 11014.5, as that section may be amended from time to time.

“Electronic Smoking Device” means an electronic and/or battery-operated device, the use of which may resemble smoking, which can be used to deliver an inhaled dose of nicotine or other substances by delivering a vaporized or heated solution. Electronic Smoking Device includes any such device, whether manufactured, distributed marketed or sold as an electronic cigarette, an e-cigarette, an electronic cigar, electronic cigarillo, an electronic pipe, an electronic hookah, vaporizer, vape pen, heated tobacco product, or any product name or descriptor, including any component, part or accessory of such a device, whether or not sold separately. Electronic Smoking Device does not include any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for other therapeutic purposes where that product is marketed and sold solely for such approved use.

“Electronic Smoking Device Paraphernalia” means cartridges, cartomizers, e-liquid, smoke juices, tips, atomizers, Electronic Smoking Device batteries, Electronic Smoking Device chargers and any other item specifically designed for the preparations, charging or use of Electronic Smoking Devices.

“Hearing Officer” means the impartial hearing officer designated to serve in this capacity.

“Itinerant Tobacco Retailing” means engaging in tobacco retailing at other than a fixed location.

“License” means a Tobacco Retail License issued by the City pursuant to this Chapter.

“Licensee” means a Person to whom a License has been issued.

“Person” means any individual, firm, partnership, joint venture, limited liability company, association, social club, fraternal organization, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

“Proprietor” means a person with an ownership or managerial interest in a business. An ownership interest shall be deemed to exist when a person has a ten percent or greater interest in the stock, assets or income of a business other than the sole interest of security for debt. A managerial interest shall be deemed to exist when a person has, or can have, sole or shared control over the day- to-day operations of a business.

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“Smoking Materials” means Tobacco Products, Electronic Smoking Device, Electronic Smoking Device Paraphernalia, and any other product containing tobacco or nicotine that releases gases, particles or vapors into the air as a result of combustion, heating, electrical ignition or vaporization, when the apparent or usual purpose is human inhalation of the byproducts.

“Tobacco Product” means: (1) any product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, snuff; and (2) any Electronic Smoking Device. (3) Notwithstanding any provision of subsections (1) and (2) to the contrary, “Tobacco Product” includes any component, part, or accessory of a tobacco product, whether or not sold separately. “Tobacco Product” does not include any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for other therapeutic purposes where such product is marketed and sold solely for such an approved purpose.

“Tobacco Paraphernalia” includes cigarette papers or wrappers, blunt wraps, pipes, holders of Smoking Materials of all types, cigarette rolling machines, and any other item or instrument designed for the smoking, consumption, use or ingestion of Tobacco Products.

“Tobacco Retailer” means any Person who sells, offers for sale, exchanges, or offers to exchange for any form of consideration, tobacco, Tobacco Products, or Tobacco Paraphernalia without regard to the quantity sold, offered for sale, exchanged, or offered for exchange.

“Tobacco Retailing” shall mean selling, offering for sale, exchanging, or offering to exchange for any form of consideration, tobacco, Tobacco Products, or Tobacco Paraphernalia without regard to the quantity sold, offered for sale, exchanged, or offered for exchange.

8.70.030 Requirement for Tobacco Retail License

A. It shall be unlawful for any Person to act as a Tobacco Retailer in the City without first obtaining and maintaining a valid Tobacco Retail License pursuant to this Municipal Code Chapter for each location at which Tobacco Retailing is to occur. No Tobacco Retail License will be issued to an authorized Tobacco Retailing at any location other than a fixed location. No License will be issued for Itinerant Tobacco Retailing or Tobacco Retailing from vehicles.

B. Nothing in this Chapter shall be construed to grant any Person obtaining a Tobacco Retail License any status or right other than the right to act as a Tobacco Retailer at the location in the City identified on the face of the License, subject to compliance with all other applicable laws, regulations, and ordinances. Nothing in this Chapter shall be construed to render inapplicable, supersede, or apply in lieu of any other provision of applicable law, including, without limitation, any condition or limitation on indoor smoking made applicable to business establishments by Labor Code Section 6404.5.

C. No Person who is younger than the minimum age established by California law for the purchase or possession of Tobacco Products shall engage in Tobacco Retailing.

8.70.040 Applications Procedure

A. An application for a Tobacco Retail License shall be submitted to the City in the name of each Proprietor proposing to conduct a Tobacco Retailing business and shall be signed by each

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Proprietor or an authorized agent thereof. A Proprietor proposing to conduct Tobacco Retailing at more than one location shall submit a separate application for each location.

B. All applications shall be submitted on a form supplied by the City and shall contain the following information:

1. The name, address, and telephone number of each Proprietor.
2. The business name, address and telephone number of the fixed location for which a Tobacco Retail License is sought.
3. The name and mailing address authorized by each applicant to receive all License-related communications and notices (the "authorized address"). Failure to supply an authorized address shall be understood to consent to the provision of notice at the business address specified in paragraph 2, above.
4. Whether or not any applicant has previously been issued a License pursuant to this Chapter, or other permit, license or entitlement issued by the City to operate the business, that is or was at any time suspended or revoked, or whether the applicant has previously had a tobacco retail license issued by another jurisdiction denied, suspended or revoked, and, if so, the dates of such denial, suspension or revocation.
5. Such other information as the City Manager deems necessary for the administration or enforcement of this Chapter.
6. Any and all additional information required by the City to be included in a Tobacco Retail License application.

8.70.050 Issuance and Renewal of License

A. Upon the receipt of an application for a Tobacco Retail License and the payment of a Tobacco Retail License fee, the City shall issue a License unless:

1. The application is incomplete or inaccurate.
2. The application seeks authorization for Tobacco Retailing at an address that appears on a License that is suspended, has been revoked, or is subject to suspension or revocation proceedings for violation of any of the provisions of this Chapter. Notwithstanding the foregoing, this subparagraph shall not constitute a basis for denial of a License if either or both of the following apply:
 - a) The applicant provides the City with documentation demonstrating that the applicant has acquired or is acquiring the premises or business in an arm's length transaction. For the purposes of this subparagraph, an "arm's length transaction" is defined as sale in good faith and for valuable consideration that reflects the fair market value in the open market between two informed and willing parties, neither under any compulsion to participate in the transaction. A sale between relatives, related companies or partners, or a sale for the primary purpose of avoiding the effect of the violations of this chapter that occurred at the location, is presumed not to be an "arm's length transaction."

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b) It has been more than three years since the most recent License for that location was revoked.

3. The application seeks authorization for Tobacco Retailing by a Proprietor for which or whom a suspension is in effect or by a Proprietor which or who has had a License revoked, pursuant to this chapter.

4. The application seeks an authorization for Tobacco Retailing that is unlawful pursuant to this Chapter, or that is unlawful pursuant to any other local, state or federal law.

5. The City has information that the applicant or his or her agents or employees have violated any local, state, or federal tobacco control law at the location for which the License or renewal of the License is sought within the preceding 30-day period.

6. The City has information that the applicant or his or her agent or employee has violated any local, state or federal tobacco control law, including this Chapter, within the preceding (12) months.

7. The issuance of a Tobacco Retail License would be in conflict with any other City ordinance.

B. Beginning from the effective date of this Chapter, all Tobacco Retailers have until December 31, 2018 to obtain a License. An application to renew such License shall be made no later than 30 days prior, but no earlier than 60 days prior to the expiration of the License. The City has no obligation to issue notification of impending expiration of any License. The applicant shall follow all of the procedures and provide all of the information required by Section 8.65.040 above. The City shall process the application according to the provisions of this section. A License may be renewed annually by submitting a Tobacco Retail License application to the City along with payment of the annual Tobacco Retail Licensing fee; provided, however, a Tobacco Retail License that is suspended, has been revoked, or is subject to suspension or revocation proceedings shall not be renewed pending the final outcome of such suspension or revocation.

C. If the information required in the License application pursuant to any subsection of Chapter 8.65 changes, a new Tobacco Retail License is required before the business may continue to act as a Tobacco Retailer. For example, if a Proprietor to whom a License has been issued changes business location, that Proprietor must apply for a new License prior to acting as a Tobacco Retailer at the new location. If the business is sold, the new owner must apply for a License for that location before acting as a Tobacco Retailer.

D. A Tobacco Retail License that is not timely renewed pursuant to this Chapter shall be automatically suspended by operation of law. If not renewed, a license shall be automatically revoked six (6) months after the renewal date. Additionally, civil, criminal and/or administrative citations may be issued during this interim period for failure to maintain the appropriate License. To reinstate the paid status of a License that has been suspended due to the failure to timely renew the License or pay the renewal fee, the Tobacco Retailer must:

1. Submit the License renewal application and fee plus a reinstatement fee of ten percent of the License renewal fee; and

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2. Submit a signed affidavit affirming that he or she has not sold any Tobacco Product or Tobacco Paraphernalia during the period the License was suspended for failure to pay the License renewal fee.

8.70.060 Display of License

Each License shall be prominently displayed in a publicly visible location at the Licensed premises. Failure to properly display the License will result in the issuance of a citation.

8.70.070 License Fees

The fee for issuance or renewal of a Tobacco Retail License shall be established by resolution of the City Council and shall be in addition to the City's business license fee and any other license or permit fee imposed by this Code upon the applicant. The Tobacco Retail License fee shall be paid to the City at the time the License application is submitted. The fee shall be calculated so as to recover the cost of administration and enforcement of this Chapter, including, for example, issuing a License, administering the License program, Tobacco Retailer education, Tobacco Retailer inspection and compliance checks, documentation of violations, and prosecution of violators, but shall not exceed the cost of the regulatory program authorized by this Chapter. All fees and interest upon proceeds of fees shall be used exclusively to fund the program. Fees are nonrefundable except as may be required by law.

8.70.080 Licenses Nontransferable & Convey a Limited, Conditional Privilege

A Tobacco Retail License is nontransferable and subject to the provisions of this Municipal Code Section. Nothing in this Chapter shall be construed to grant any Person obtaining and maintaining a Tobacco Retailer License any status or right other than the limited conditional privilege to act as a Tobacco Retailer at the location within the City's jurisdictional boundaries identified on the face of the License, subject to compliance with the terms and conditions of this Chapter.

8.70.090 License Violations – Compliance Monitoring

A. It shall be a violation of a Tobacco Retail License for a Tobacco Retail Licensee or his or her agents or employees to violate any local, state or federal tobacco-related law.

B. It shall be a violation of this Chapter for any Tobacco Retail Licensee or any of the Licensee's agents or employees to violate any local, state, or federal law regulating controlled substances or Drug Paraphernalia including, but not limited to, California Health and Safety Code section 11364.7, as that section may be amended from time to time.

C. In addition to the provisions of this Municipal Code, compliance with this Chapter shall be monitored by the San Diego County Sheriff's Department. Any peace officer or Municipal Code compliance official also may enforce this Chapter. The San Diego County Sheriff's Department shall check compliance of each Tobacco Retailer at least one time per twelve (12) month period and shall conduct additional compliance checks as warranted. The compliance checks shall be conducted to determine, at a minimum, if the Tobacco Retailer is complying with tobacco laws regulating underage sales. The San Diego County Sheriff's Department shall use youth decoys and comply with protocols for the compliance checks developed in consultation with the San Diego County Department of Health and Human Services and the San Diego District Attorney. When appropriate, the compliance checks shall determine compliance with other tobacco-related laws.

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D. The City shall not enforce any tobacco related minimum age law against a Person who otherwise might be in violation of such law because of a Person's age (hereinafter "youth decoy") if the potential violation occurs when:

1. The youth decoy is participating in a compliance check supervised by a peace officer; or

2. The youth decoy is participating in a compliance check funded in part by the San Diego County Department of Health and Human Services or funded in part, either directly or indirectly through sub-contracting, by the California Department of Health Services; or

3. The youth decoy has a letter of permission for such compliance check activity from the District Attorney's Office.

8.70.100 Suspension or Revocation of License

A. In addition to any other penalty authorized by law, and including the provisions of this Municipal Code, a Tobacco Retail License may be suspended or revoked if the City finds, after notice to the Tobacco Retail Licensee and opportunity to be heard, that the Tobacco Retail Licensee or his or her agents or employees has or have violated any of the provisions of this Chapter; provided, however, violations by a Licensee at one location may not be accumulated against other locations of that same Tobacco Retail Licensee, nor may violations accumulated against a prior Tobacco Retail Licensee at a Licensed location be accumulated against a new Tobacco Retail Licensee at the same Licensed location.

1. Upon a finding by the City of a first License violation within any three-year period, the City shall:

a) Issue a written warning to the Licensee, including providing an educational notice about the nature of the violation; and

b) Assess a fine against the Licensee for violation of this Chapter

2. Upon a finding by the City of a second License violation within any three-year period, the City shall:

a) Require the Licensee to provide documentation to the City that all employees engaged in the Retail Sale of tobacco have received training in a City approved program within sixty (60) days after the warning, or such other time as shall be set by the City; and

b) Assess an additional fine against the Licensee for violation of this Chapter

3. Upon the finding by the City of a third License violation within any three-year period, the City may suspend or revoke the License.

B. A Tobacco Retail License shall be revoked if the City finds, after notice and opportunity to be heard, that any one of the conditions listed below exist. The revocation shall be without prejudice to the filing of a new application for a Tobacco Retail License.

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1. One or more of the bases for denial of a Tobacco Retail License under Section 8.65.050 existed at the time the Tobacco Retail License application was made or at any time before the Tobacco Retail License was issued.

2. The application is incomplete for failure to provide the information required by Section 8.65.040.

3. Any information contained in the application, including supplemental information, if any, is found to be false in any material respect.

4. The application seeks authorization for Tobacco Retailing that is unlawful pursuant to this Code, or that is unlawful pursuant to any other local, state or federal law.

C. In the event the City suspends or revokes a Tobacco Retail License, written notice of the suspension or revocation shall be served upon the Tobacco Retail Licensee within five (5) days of the suspension or revocation in a manner prescribed in Section 8.65.040. The notice shall contain:

1. A brief statement of the specific grounds for such suspension or revocation;

2. A statement that the Tobacco Retail Licensee may appeal the suspension or revocation by submitting an appeal, in writing, in accordance with the provisions of Section 8.65.110, to the City, within ten (10) calendar days of the date of the service of the notice; and

3. A statement that the failure to appeal the notice of suspension or revocation will constitute a waiver of all rights to an administrative appeal hearing, and the suspension or revocation will be final.

8.70.110 Denial, Suspension and Revocation - Appeals

A. Any Tobacco Retail License applicant or Licensee aggrieved by the decision of the City in denying, suspending, or revoking a Tobacco Retail License, may appeal the decision, by submitting a written appeal to the City Clerk within ten (10) calendar days from the date of service of the notice of denial, suspension, or revocation. The written appeal shall contain:

1. A brief statement of the specific action protested, together with any material facts claimed to support the contentions of the appellant;

2. A brief statement of the relief sought, and the reasons why it is claimed the protested action should be reversed or otherwise set aside;

3. The signatures of all parties named as appellants and their official mailing addresses; and

4. The verification (by declaration under penalty of perjury) of at least one appellant as to the truth of the matters stated in the appeal.

B. The appeal hearing shall be conducted by a Hearing Officer.

C. Upon receipt of any appeal filed pursuant to this section, the City Clerk shall transmit said appeal to the Hearing Officer who shall calendar it for a hearing. The Hearing Officer shall

Attachment B

give the parties at least fifteen (15) calendar days written notice of the time and place of the hearing either by causing a copy of such notice to be delivered to the appellant personally or by mailing a copy thereof, postage prepaid, addressed to the appellant at the address shown on the appeal. Upon good cause, the Hearing Officer may grant one extension for the date of the hearing not to exceed fifteen (15) days from the original date set for the hearing.

D. Only those matters or issues specifically raised by the appellant in the notice of appeal shall be considered in the hearing of the appeal.

E. Failure of any Person to file a timely appeal in accordance with the provisions of this section shall constitute an irrevocable waiver of the right to an administrative hearing and a final adjudication of the notice and order, or any portion thereof.

F. Following the hearing on the appeal by the Hearing Officer, the decision of the Hearing Officer may be appealed to the City Manager or his or her designee. A decision of the City Manager or his or her designee shall be the final decision of the City.

G. During a period of License suspension, the Tobacco Retail Licensee must remove from public view all Tobacco Products and Tobacco Paraphernalia at the address that appears on the suspended or revoked Tobacco Retail License.

8.70.120 Hearings – Generally

A. At the time set for hearing, the Hearing Officer shall proceed to hear the testimony of material witnesses, the appellant, and other competent Persons, including members of the public, respecting those matters or issues specifically listed by the appellant in the notice of appeal.

B. The proceedings at the hearing shall be electronically recorded. Either party may provide a certified shorthand reporter to maintain a record of the proceedings at the party's own expense.

C. The Hearing Officer may, upon the request of the appellant or upon the request of the City, grant continuances from time to time for good cause shown, or upon his or her own motion.

8.70.130 Conduct of Hearing

A. Hearings need not be conducted in accordance to the technical rules relating to evidence and witnesses. Government Code section 11513, subsections (a), (b) and (c), or as such section may be amended from time to time, shall apply to hearings under this Chapter.

B. Oral evidence shall be taken only upon oath or affirmation.

C. Irrelevant and unduly repetitious evidence shall be excluded.

D. Each party shall have these rights, among others:

1. To call and examine witnesses on any matter relevant to the issues of the hearing.
2. To introduce documentary and physical evidence.

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3. To cross-examine opposing witnesses on any matter relevant to the issues of the hearing.

4. To impeach any witness regardless of which party first called the witness to testify.

5. To rebut evidence presented against the party.

6. To represent himself, herself, or itself, or to be represented by anyone of his, her, or its choice who is lawfully permitted do so.

E. In reaching a decision, official notice may be taken, either before or after submission of the case for decision, of any fact that may be judicially noticed by the courts of this state or that may appear in any of the official records of the City of any of its departments.

8.70.140 Form and Contents of Decision of Hearing Officer - Appeal to City Manager - Finality of Decision

A. If it is shown, by a preponderance of the evidence, that one or more bases exist to deny, suspend, or revoke the Tobacco Retail License, the Hearing Officer shall affirm the City's decision to deny, suspend, or revoke the Tobacco Retail License. The decision of the Hearing Officer shall be in writing and shall contain findings of fact and a determination of the issues presented.

B. The decision of the Hearing Officer shall inform the appellant that the decision may be appealed to the City Manager by filing a written appeal with the Hearing Officer within ten (10) days of receipt of the decision of the Hearing Officer. The written appeal shall be forwarded to the City Manager upon receipt.

C. Within fifteen (15) days of receipt of the written appeal, the City Manager shall review the record of the hearing and issue a written decision to grant or deny the appeal. A decision of the City Manager shall be final. The City Manager shall provide appellant with a copy of his or her decision and that the time for judicial review is governed by California Code of Civil Procedure section 1094.6, or as such section may be amended from time to time. Copies of the decision shall be delivered to the parties personally or sent by certified mail to the address shown on the appeal. The decision shall be final when signed by City Manager and served as provided in this section.

8.70.150 Enforcement

A. In addition to any other remedy, any Person violating any provision of this Chapter shall be guilty of a misdemeanor for each day a violation continues.

B. Any violation of this Chapter may be remedied by a civil action brought by the City Attorney. The City may recover attorneys' fees and costs of suit, including witness fees, in any civil action brought by the City Attorney to remedy any violation of this Chapter.

C. Violations of this Chapter are hereby declared to be public nuisances subject to abatement by the City.

D. In addition to criminal sanctions and other remedies set forth in this Chapter, civil and administrative penalties may be imposed pursuant to Chapter 1.24 of this Municipal Code against

Attachment B

any Person violating any provision of this Chapter. Imposition, enforcement, collection and administrative review of administrative penalties imposed shall be conducted pursuant to Chapter 1.24 of this Municipal Code.

8.70.160 Severability

If any section, subsection, subdivision, paragraph, sentence, clause, or phrase in this chapter or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, that decision shall not affect the validity or effectiveness of the remaining portions of this chapter or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof irrespective of the fact that any one or more subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional, or invalid, or ineffective.

Attachment C

LETTERS OF SUPPORT RECEIVED



March 6, 2018

Lorenzo Higley, MSW
CASA Consultant
275 E. Douglas, Suite 115
El Cajon, CA 92020

Dear Lorenzo,

On behalf of the Lemon Grove Clergy Association which is made up of pastors of many denominations, we want to write to show our support of the new Tobacco Retailer Licensing Program ordinance.

After reading over the material and looking at the research, we believe it will help protect lemon grove youth from a life of tobacco addiction which has many negative consequences. As church pastors we often walk through these devastating effects of smoking with our church members. It especially breaks our hearts when they are youth. This is why we believe that we as a community need to do our best to keep tobacco related products (including electronic smoking devices) out of the hands of our children.

We have seen Tobacco Retailer Licensing work in other communities like El Cajon, Vista and San Marcos and we believe it would be a wise decision to implement a similar program like this in Lemon Grove since the last study done (2017) showed that 1/3 of our Lemon Grove stores sold cigarettes to minors. We need this tool to help ensure that retailers comply with existing laws that prohibit tobacco sales to minors.

Thank you for giving serious consideration to this matter.

Sincerely,

Mark & Anne Stapleton, as representatives of the Lemon Grove Clergy Association

Attachment C



March 6, 2018

Raquel Vasquez
Mayor, City of Lemon Grove
3232 Main Street
Lemon Grove, CA 91945

Dear Mayor Vasquez & Members of the City Council:

Cigarette smoking kills an estimated 480,000 people in America each year – more than alcohol, illegal drug use, homicide, suicide, car crashes, and AIDS combined! (CDC 2014). In California, 9 out of 10 smokers started smoking before age 21.

Tobacco products include cigarettes, electronic cigarettes, vape pens, hookah pens, and little cigars/cigarillos. While the rate of tobacco use among youth in East County has declined slightly over the years, it is still unconscionable that retailers continue to sell tobacco to minors (<age 21). And 18-19 year olds are twice as likely as 16-17 year olds to be current smokers.

CASA and our youth volunteers conducted multiple surveys of all retailers in Lemon Grove over the past three years. The results indicate that 31-41% of local tobacco retailers illegally sold a tobacco product to a minor. Nearly three-quarters of the retailers didn't even ask the age of the young volunteer. And this was after we visited each retailer and provided training material about California tobacco laws and their responsibility to prevent illegal tobacco sales to minors. The bottom line is that tobacco sales represent a large portion of revenue for small retailers and the risk of being held accountable is non-existent.

To reduce illegal sale of tobacco products to minors, many cities and counties in California have adopted strong local tobacco retailer licensing ordinances. Here in San Diego County, the cities of El Cajon, San Marcos, Solana Beach, and Vista have all adopted tobacco retailer ordinances that include licensing fees and enforcement. These are two key elements of an effective ordinance: 1) fees set high enough to sufficiently fund program administration and enforcement; and 2) a rigorous annual enforcement program with progressive consequences to deter illegal sales. Research shows that these elements result in drastically reduced sales to minors.

The US Surgeon General reports that among teens who start smoking before age 18: 1 out of 3 will quit, 2 out of 3 will have a lifetime of addiction to nicotine, and one-half of those will die of tobacco-related disease. We support your leadership in seeking to protect young people from a lifetime of addiction and poor health.

Thank you for considering a local ordinance to hold tobacco retailers accountable for illegal sales to minors.

Respectfully,



Dana J. Stevens
Executive Director

Attachment D

COMMUNITY SURVEY RESULTS

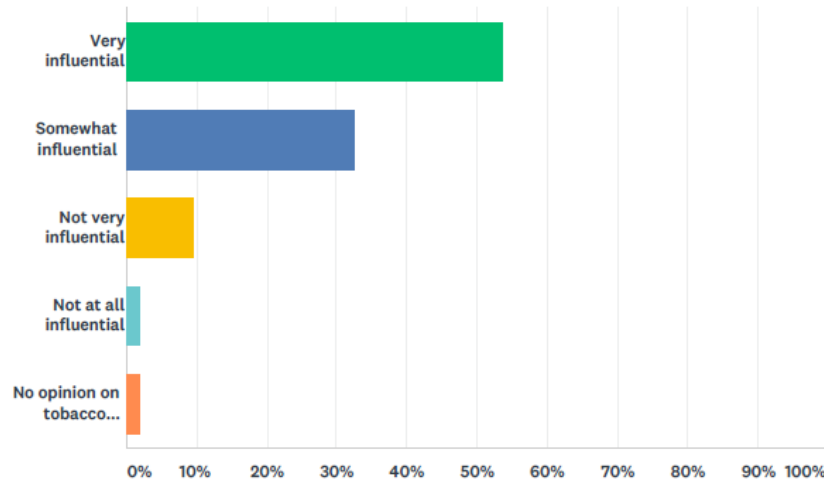
FALL 2018

Lemon Grove TRL Survey

SurveyMonkey

Q1 How much influence do you think tobacco advertising has on young people?

Answered: 52 Skipped: 0



ANSWER CHOICES	RESPONSES	
Very influential	53.85%	28
Somewhat influential	32.69%	17
Not very influential	9.62%	5
Not at all influential	1.92%	1
No opinion on tobacco advertising influence on youth	1.92%	1
TOTAL		52

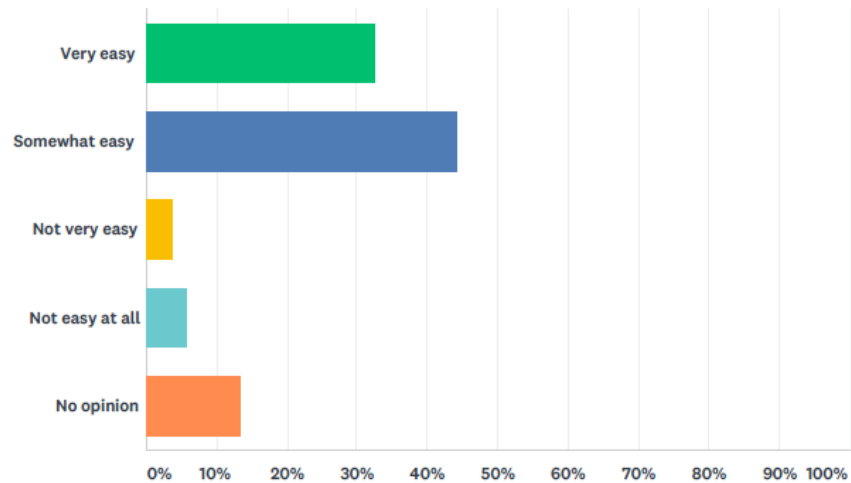
Attachment D

Lemon Grove TRL Survey

SurveyMonkey

Q2 How easy do you think it is for youth to purchase tobacco products in Lemon Grove?

Answered: 52 Skipped: 0



ANSWER CHOICES		RESPONSES	
Very easy		32.69%	17
Somewhat easy		44.23%	23
Not very easy		3.85%	2
Not easy at all		5.77%	3
No opinion		13.46%	7
TOTAL			52

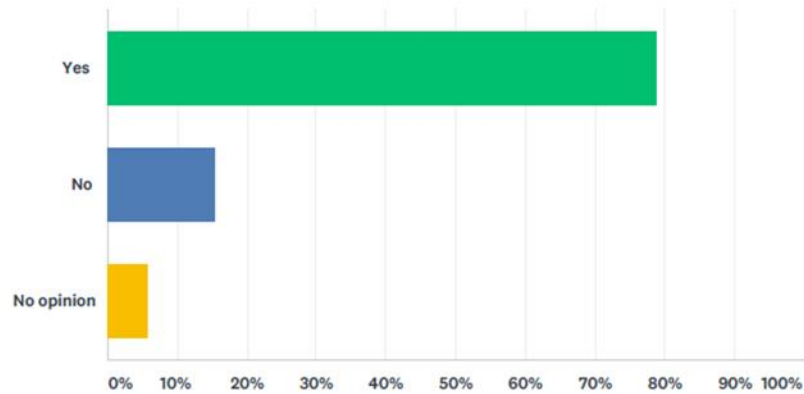
Attachment D

Lemon Grove TRL Survey

SurveyMonkey

Q3 Tobacco retailers in Lemon Grove should be required to purchase a local license to sell tobacco

Answered: 52 Skipped: 0



ANSWER CHOICES	RESPONSES	
Yes	78.85%	41
No	15.38%	8
No opinion	5.77%	3
TOTAL		52

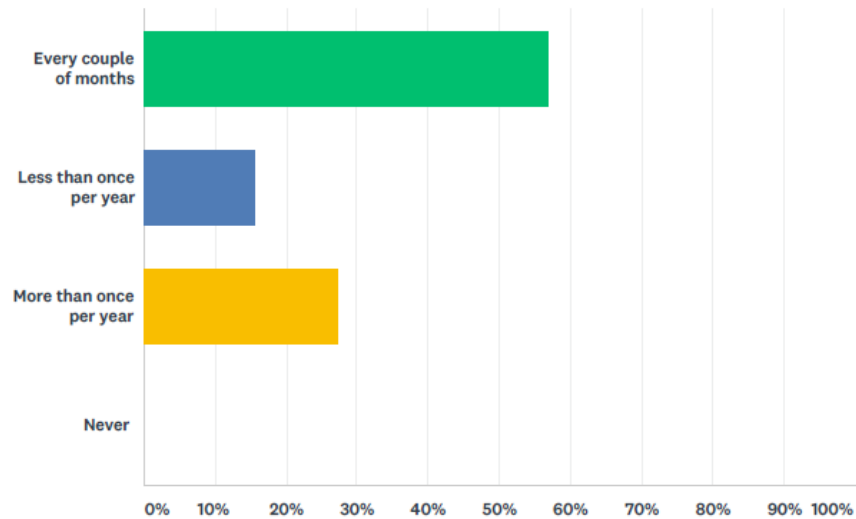
Attachment D

Lemon Grove TRL Survey

SurveyMonkey

Q4 How Often do you think that tobacco retailers should be checked for compliance of sales to minors?

Answered: 51 Skipped: 1



ANSWER CHOICES	RESPONSES	
Every couple of months	56.86%	29
Less than once per year	15.69%	8
More than once per year	27.45%	14
Never	0.00%	0
TOTAL		51

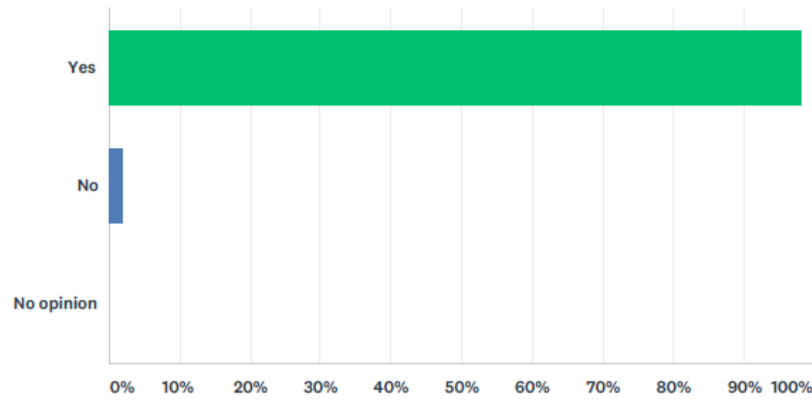
Attachment D

Lemon Grove TRL Survey

SurveyMonkey

Q5 Tobacco retailers in Lemon Grove should face consequences for selling tobacco to minors

Answered: 52 Skipped: 0



ANSWER CHOICES	RESPONSES	
Yes	98.08%	51
No	1.92%	1
No opinion	0.00%	0
TOTAL		52

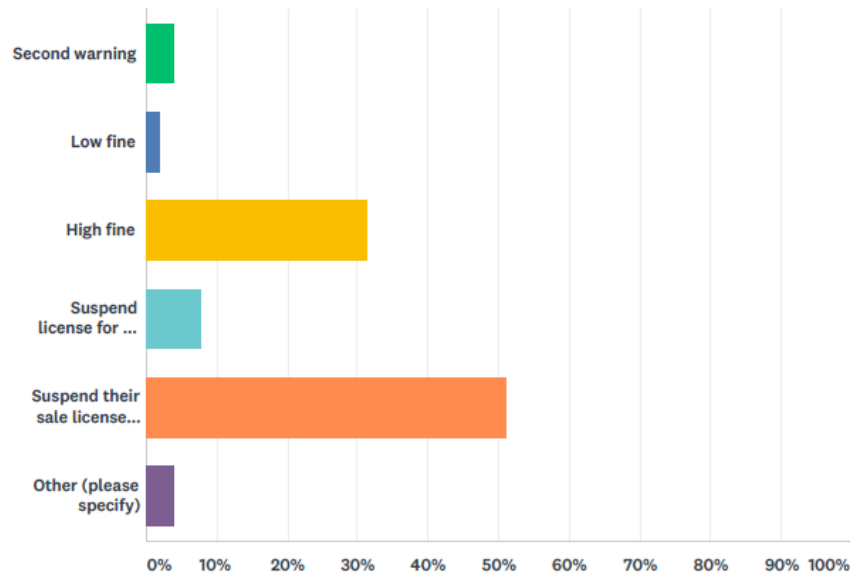
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Lemon Grove TRL Survey

SurveyMonkey

Q6 If yes, if a tobacco retailer sells tobacco to youth more than once, their consequences should be:

Answered: 51 Skipped: 1



ANSWER CHOICES	RESPONSES	
Second warning	3.92%	2
Low fine	1.96%	1
High fine	31.37%	16
Suspend license for a few days	7.84%	4
Suspend their sale license for a period up to 6 months	50.98%	26
Other (please specify)	3.92%	2
TOTAL		51

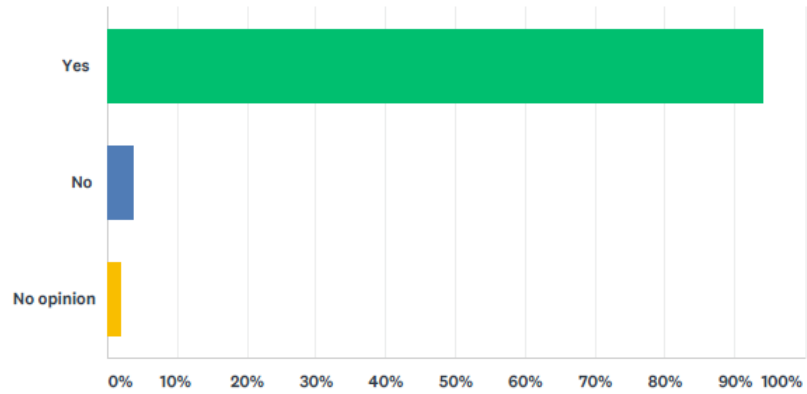
Attachment D

Lemon Grove TRL Survey

SurveyMonkey

Q7 Would you support a local control ordinance to hold tobacco retailers accountable for illegal sales to minors?

Answered: 52 Skipped: 0



ANSWER CHOICES	RESPONSES	
Yes	94.23%	49
No	3.85%	2
No opinion	1.92%	1
TOTAL		52

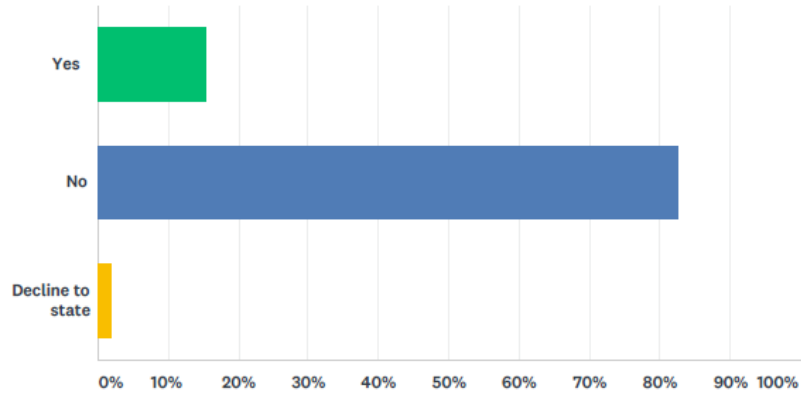
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Lemon Grove TRL Survey

SurveyMonkey

Q8 Have you used any tobacco products in the past 6 months?

Answered: 52 Skipped: 0



ANSWER CHOICES	RESPONSES	
Yes	15.38%	8
No	82.69%	43
Decline to state	1.92%	1
TOTAL		52

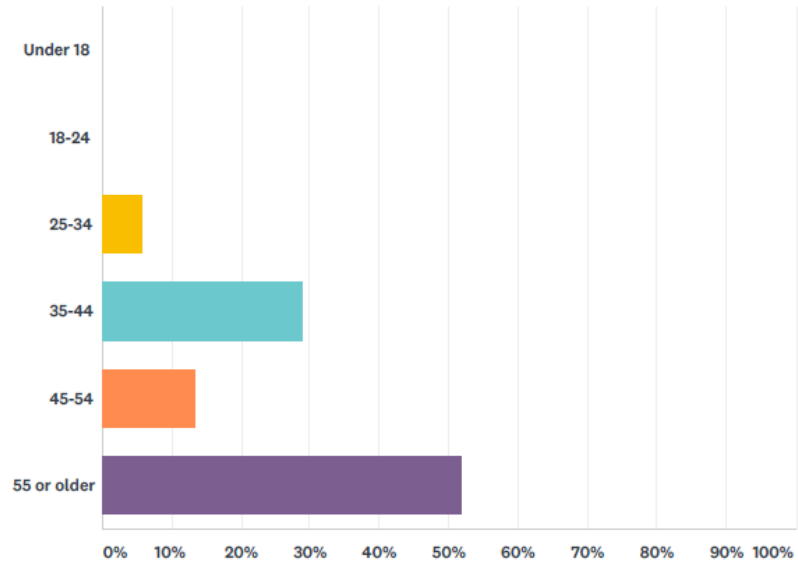
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Lemon Grove TRL Survey

SurveyMonkey

Q9 What is your age?

Answered: 52 Skipped: 0



ANSWER CHOICES	RESPONSES
Under 18	0.00% 0
18-24	0.00% 0
25-34	5.77% 3
35-44	28.85% 15
45-54	13.46% 7
55 or older	51.92% 27
TOTAL	52

Attachment D

Lemon Grove TRL Survey

SurveyMonkey

Q10 Other comments about illegal tobacco sales to minors that you would like to share

Answered: 18 Skipped: 34

#	RESPONSES	DATE
1	Regrading item 6, a 3rd time would be cause a high fine and license suspension up to 6 months.	10/10/2018 6:07 PM
2	N/A	10/10/2018 11:03 AM
3	None. Thank you!	10/10/2018 8:49 AM
4	None	10/9/2018 7:01 PM
5	Minors should also be held accountable for their behavior.. dont just punish the retailer.	10/8/2018 8:56 PM
6	My dad smoked 4-6 packs a day & I was an avid anti-smoking protester. As is typical, at age 16, I wanted to be cool at a party. That's how I started smoking. Bottom line is if kids want to smoke, they are going to smoke.	10/8/2018 6:17 PM
7	Share the results of this survey with the city of Lemon Grove City Council, please.	10/8/2018 11:49 AM
8	no selling of tobacco in vending machines.. Contact the parents if kids caught smoking.	10/8/2018 11:36 AM
9	Please include all tobacco products and "sides", (bowls, juul, papers, etc...)	10/8/2018 10:09 AM
10	Adults who purchase tobacco products for minors intentionally should be ticketed and fined heavily. For example; purchasing a pack of cigarettes and then handing them to a minor outside the store.	10/8/2018 10:00 AM
11	lack of availablity is key. We do not need so many avenues for youth to get these products.	10/8/2018 9:53 AM
12	We need to protect our communities children and youth. And we need to clean up our city.	10/8/2018 9:20 AM
13	We really need to crack down on this. And let retailers know it will be done anonymously so they will comply.	10/8/2018 9:19 AM
14	None	10/8/2018 9:14 AM
15	This should be all tobacco and tobacco related products.. vape pens,e-cigs,etc	10/8/2018 9:04 AM
16	none	10/8/2018 8:57 AM
17	21 years old may be excessive. Kids can vote at 18. Boys of 18 must register for the draft. If we can kill them on the battlefield how can we say no to smoking? Similarly, kids can drive at 16 (and many of them are awful drivers) and can die or cause death. Let's get these ages in sync. Driving and smoking at 19. Draft, voting should be at 21. Some are in favor of everything at 21, the traditional "age of consent." The intention should be to save the lives of the new generation.	10/8/2018 8:46 AM
18	No	10/8/2018 8:37 AM